

EVELYN GARCIA-CANTRE, PETITIONER, VS. SOCIAL SECURITY SYSTEM AND CIVIL SERVICE COMMISSION, RESPONDENTS.

Ponente: PERALTA, JR., E. B., J.

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PERALTA, JR., E. B., J.:

When the Civil Service Commission agreed[1] with Social Security System (SSS) President Corazon S. Dela Paz-Bernardo's disposition to drop petitioner from the rolls of employee on account of incurred absences sans an approved leave, petitioner resorted to the current Petition for Review.[2]

Elemental backdrop of the controversy disclosed that petitioner Evelyn Garcia-Cantre was a former Senior Technical Assistant of the Social Security System-National Capital Region-Central Cluster Legal Unit.

To accompany petitioner's sick mother to Australia for a medical check-up and to renew ties with relatives, petitioner requested for a 6 month no pay vacation leave to take effect on October 12, 2006.[3]

Per a Memorandum[4] dated October 6, 2006, petitioner's request for 6 month vacation leave without pay was approved subject to these conditions: (1) submission of clearance from money and property accountabilities; (2) the prospect of recall anytime if the exigency of service so requires; (3) there shall be no extension; (4) a commitment to return upon expiration of the leave, subject to an administrative case against her for violation of office rules and regulations; and (5) no government fund shall be used for the purpose.

On the basis thereof, petitioner went on a 6-month leave of absence from October 12, 2006 to April 11, 2007.

Trouble ensued when petitioner did not return to work after the expiration of her 6 month vacation leave or after April 11, 2007. However, as advocated by petitioner, she wrote a letter[5] dated March 31, 2007 to urge an extension of four months leave or until July 31, 2007 which was allegedly sent by mail. Apparently, the letter-request did not reach the intended recipient nor was there was any proof that the letter dated March 31, 2007 was indeed sent through the postal service.

On May 3, 2007, petitioner's husband handed two resignation letters[6] to the personnel department of SSS but as borne out by the record, these resignation letters were not indorsed to the Office of the SSS President since these letters were not supported by the requisite documentation.

In the meantime, when petitioner came to know that her March 31, 2007 letter was not received by the other party, through her representative, the letter was delivered to the SSS, through the Office of the President, on June 8, 2007. Thereafter, no action was made on petitioner's letter dated March 31, 2007.

Petitioner then returned to the Philippines on June 21, 2007. Four days thereafter, or on June 25, 2007, petitioner informed[7] the SSS administrative body that pending her request for extension of leave, she opted to return for work on even date. She then performed office tasks in the form of several court hearings and investigation of SSS matters.

On June 28, 2007, the Cluster Legal Support Division of the SSS issued a Memorandum[8] for petitioner to

refrain from attending case hearings and performing work responsibilities pending resolution of petitioner's status as an SSS employee following the inability to report for work after the authorized leave for six months.

On July 18, 2007, petitioner wrote a letter addressed to the SSS President to reiterate that she withdrew her letter of resignation which was previously received by the SSS and that she reported for work starting June 25, 2007. As such, petitioner likewise requested for her salary reckoned from June 25, 2007.

By July 20, 2007, petitioner ceased to report for work and eventually, on July 27, 2007, she filed a Complaint for non-payment of salaries and illegal constructive dismissal against SSS before the CSC-NCR.

Pending resolution of petitioner's Complaint before the CSC-NCR, the SSS issued an Office Order No. 298-P[9] dated September 6, 2007, which dropped petitioner from the rolls, effective May 25, 2007, due to her failure to report for work after expiration of her approved vacation leave.

Petitioner's letter dated November 15, 2007 manifested that her Complaint for illegal dismissal should be treated as an appeal from the directive to drop her name from the rolls of service.

While the CSC-NCR did not treat petitioner's Complaint for illegal dismissal as an appeal, petitioner's subsequent letter dated November 15, 2007 was considered by the CSC-NCR as petitioner's appeal from being dropped from the rolls of service. Although the letter dated November 15, 2007 was filed on November 23, 2007, or beyond the 15 day reglementary period to file an appeal, the CSC-NCR went beyond technical rules in the interest of substantial justice.

On July 29, 2009, the CSC-NCR dismissed petitioner's appeal and agreed with the SSS President and CEO Corazon S. Dela Paz-Bernardo's disposition to drop petitioner from the rolls of service. Later, the CSC Proper was far from persuaded by petitioner's advocacy.[10]

In the resolution of petitioner's redress before Us via Rule 43, which revolved on the due process clause and the aspect of the so-called abandonment of work, it is fitting to retell that petitioner requested for, and was granted, a 6 month leave without pay starting October 12, 2006 with preconditions therefor.

Thereafter, petitioner's letter dated March 31, 2007 applied for another 4 month extension of leave without pay, which communication was received by private respondent only on June 8, 2007.

Based on the foregoing alpha, reckoned from October 12, 2006, petitioner's 6 month leave without pay lapsed on April 11, 2007 but petitioner did not return to work thereafter. Consequently, petitioner's absences from April 12, 2007 and the succeeding days can hardly be justified even as it would appear that she applied for an extension of 4 months leave via a letter dated March 31, 2007 inasmuch as the application was received only by private respondent on June 8, 2007. At that time, petitioner already incurred absences without official leave (AWOL) for more than 30 days.

Along this line, Section 63 of Rule XVI of the Omnibus Rules on Leave, as amended by Memorandum Circular 13, Series of 2007 assumes legal resonance:

Effect of absences without approved leave. - An official or an employee who is continuously absent without approved leave for at least thirty (30) working days shall be considered on absence without official leave (AWOL) and shall be separated from the service or dropped from the rolls without prior notice. However, when it is clear under the obtaining circumstances that the official or employee concerned has established a scheme to circumvent the rule by incurring substantial absences though less than thirty (30) working days three times in a semester, such that a pattern is already apparent, dropping from the rolls without notice may likewise be justified.

If the number of unauthorized absences incurred is less than thirty (30) working days, a written Return-to-Work Order shall be served to him at his last known address on record. Failure on his part to report for work within the period stated in the Order shall be a valid ground to drop him from the rolls.(Emphasis and underscoring supplied).

Moreover, from the language of the rule, no prior notice is required to drop an employee from the rolls who is continuously absent without approved leave for at least thirty (30) calendar days.[11] Furthermore, the notice contemplated by the proviso is not jurisdictional in nature and failure to give such notice by the appropriate government office does not prevent the dropping of the employee concerned from the government service. Staying away from one's regular employment in the government or remaining on leave without proper approval is something that an employee can hardly be unaware of.[12]

Verily, petitioner's own representation[13] that she only returned to work on June 25, 2007 was sufficient enough to prove that from April 12, 2007 up to June 24, 2007, she did not report to her post and there was no showing that there was an approved leave during the relevant period.

Petitioner further insisted that she could not have incurred unauthorized absences and asserted that her application for an extension of 4 month leave was impliedly approved by private respondent based on Section 49[14] of Rule XVI of the Omnibus Rules on Leave which pertained to the automatic approval of leave application when unacted upon for five days.

Under the Civil Service Rules, the taking and approval of a leave of absence follow a formal process,[15] - an application for leave must be in the prescribed form, filed within the period provided and duly approved by the authorized officer.[16]

By contrast, petitioner's demeanor along this line did not jibe with what was expected of her by legal norm. No specified form was accomplished for her additional 4 month leave. Neither was the application filed five days in advance prior to the intended date of leave, and yes, it was brought to the attention of private respondent after the expiration of her initial leave for six months.

As expounded by the CSC relative to the alleged automatic approval of leave:

“Nevertheless, for the rule on automatic approval to be operative, it is necessary that the leave application should be complete in form and substance. Thus, for a vacation leave, it is necessary that the application shall be on the prescribed form, and must be submitted, whenever possible, five (5) days prior to the effective date of such leave. (Section 51, CSC MC No. 41 s. 1998, as amended). With regard to sick leave, the application shall also be made in the prescribed form, and shall be filed immediately upon the employee's return from such leave, with the corresponding medical certificate if the leave is in excess of five (5) successive days. (Section 53, supra). As regards leave without pay, a requisite clearance from the head of office shall first be secured if the leave will be in excess of one month. The reason for this is that when a leave application is not complete, then there is as yet no occasion for the exercise of discretion or prerogative of the head of the agency or his authorized representative. It is only upon the submission of a complete leave application that the five-day period as ordained by the rule on automatic approval be deemed to run. In this case, there is no more reason why the head of the agency or his representative cannot timely act on the application.”[17]

Ordinarily, We accord intrinsic worth to the CSC's interpretation. As the central agency mandated to “prescribe, amend and enforce rules and regulations carrying into effect the provision of the Civil Service Law and other pertinent laws,” the CSC has the power to interpret its own rules and any phrase contained in them, with its interpretation significantly becoming part of the rules themselves.[18]

Furthermore, it must be recalled that when petitioner's leave of absence without pay was approved by private

respondent, it was subject to the express condition that such leave cannot be extended. Apparently, petitioner was forewarned that she could no longer extend her vacation leave after the April 11, 2007. Hence, it was difficult to absorb the idea of an extension for petitioner especially so when the request therefor was belatedly filed.[19]

Petitioner likewise insisted that when she returned to work on June 25, 2007, private respondent admitted her back and deliberately retained her in the rolls.

We were not persuaded.

When petitioner returned on June 25, 2007, she was already on AWOL, and in fact, on June 28, 2007, two days after she reported for work, she was notified by the Assistant Vice President to refrain from performing work responsibilities pending administrative evaluation of petitioner's status.

As aptly observed by the CSC Proper:

“Yet, Cantre insists that when she was allowed to report back to work on June 25, 2007, the SSS was thereby legally precluded from dropping her from the rolls for unauthorized absences.

The Commission does not see it that way. Her return to duty did not erase the unauthorized absences she incurred following the expiration of her approved leave without pay. She was still on AWOL during that period. More importantly, her comeback was not without any protestation from the SSS. Two days after she resumed her work, she was advised to desist from discharging her duties and responsibilities while her status as an employee was under scrutiny. Afterwards, she was dropped from the rolls...”[20]

Petitioner also averred that she was denied due process by public respondent when it refused to consider the evidence adduced by her in the proceeding below.

We do not agree with petitioner's submission relative to denigration of due process. A flashback of what unfolded below revealed that public respondent closely scrutinized the documentary evidence adduced by the parties after a detailed account of what transpired.

It is a familiar maxim in law that “the essence of due process in administrative proceedings is the opportunity to explain one's side or seek a reconsideration of the action or ruling complained of. As long as the parties are given the opportunity to be heard before judgment is rendered, the demands of due process are sufficiently met. What is offensive to due process is the denial of the opportunity to be heard. The Court has repeatedly stressed that parties who chose not to avail themselves of the opportunity to answer charges against them cannot complain of a denial of due process.”[21]

WHEREFORE, based on the foregoing discourse, the Petition for Review is hereby DENIED for lack of merit. Hence, the Decision on February 1, 2011 and Resolution dated August 9, 2011 from the Civil Service Commission are hereby AFFIRMED.

SO ORDERED.

De Leon, M.M., (Chairperson), and Cruz, S.C., JJ., concur.

[1] Annex “A”, and Annex “B”, Rollo, pp. 68-80, 81-86.

[2] Dated September 29, 2011, Rollo, pp. 3-67.

[3] See Annex “I”, Rollo, pp. 135-136.

[4] See Annex “1”, Rollo, page 223.

[5] See Annex “J”, Rollo, page 137.

[6] See Annexes “4” and “5”, Rollo, pp. 226-227.

[7] See Annex “L”, Rollo, page 139.

[8] See Annex “Q”, Rollo, page 144.

[9] See Annex “X”, Rollo, page 151.

[10] See Annex “C”, Rollo, pp. 87-100.

[11] RE: Absence Without Official Leave (AWOL) of Mr. Gregorio B. Saddi, Clerk of Court II, Municipal Trial Court, Sasmuan, Pampanga, A.M. No. 07-10-260-MTC, December 13, 2007.

[12] Atty. Giselle G. Talion, Clerk of Court VI, Office of the Clerk of Court, Regional Trial Court, Panabo Davao Del Norte v. Esteban P. Ayupan, Sheriff IV, Regional Trial Court, Office of the Clerk of Court, Davao Del Norte, A.M. No. P-01-1529, January 23, 2002.

[13] Paragraph 5,8, Petition for Review, page 9, Rollo, page 11; Section 4, Rule 129, Section 2 (a), Rule 131, Revised Rules on Evidence.

[14] Section 49. Period within which to act on leave application.— Whenever the application for leave of absence, including terminal leave, is not acted upon by the head of agency or his duly authorized representative within five (5) working days after receipt thereof, the application for leave of absence shall be deemed approved.

[15] RE: Habitual Tardiness of Cesar E. Sales, Cash Clerk III, Metropolitan Trial Court, Office of the Clerk of Court, Manila, A.M. No. P-13-3171 (formerly A.M. OCA IPI No. 11-11-116-MeTC), January 28, 2014.

[16] Omnibus Rules on Leave, Civil Service Memorandum Circular No. 40, series of 1998, See Sections 50-54 of the Omnibus Rules.

[17] See CSC Decision, page 10; Rollo, page 77.

[18] Commission on Appointments, represented herein by Its Secretary Hon. Arturo L. Tiu v. Celso M. Paler, G.R. No. 172623, March 13, 2010.

[19] See case Leave Division, office of Administrative Services-Office of the Court Administrator (OCA) v. Wilma Salvacion P. Heusdens, Clerk IV Municipal Trial Court in Cities, Tagum City, A.M. No. P-11-2927 [Formerly A.M. OCA IPI No. 10-3532-P], December 13, 2011.

[20] See CSC Decision page 11; Rollo page 78.

[21] Department of Health v. Phil. Pharmawealth, Inc., G.R. No. 182358, February 20, 2013, citing Flores v. Montemayor, G.R. No. 170146, June 8, 2011, 651 SCRA 396.

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